

**AGENDA FOR THE  
REGULAR COUNCIL MEETING OF  
TUESDAY, SEPTEMBER 16, 2003 AT 10:00 A.M.  
CITY ADMINISTRATION BUILDING  
COUNCIL CHAMBERS - 12TH FLOOR  
202 "C" STREET  
SAN DIEGO, CA 92101**

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**NOTE:** The public portion of the meeting will begin at 10:00 a.m. The City Council will meet in Closed Session this morning from 9:00 a.m. - 10:00 a.m. Copies of the Closed Session agenda are available in the Office of the City Clerk.

**OTHER LEGISLATIVE MEETINGS**

The **SAN DIEGO REDEVELOPMENT AGENCY** is scheduled to meet today in the Council Chambers. A separate agenda is published for it, and is available in the Office of the City Clerk. For more information, please contact the Redevelopment Agency Secretary at 533-5432.

ITEM-300:               ROLL CALL.

**NON-AGENDA PUBLIC COMMENT**

This portion of the agenda provides an opportunity for members of the public to address the Council on items of interest within the jurisdiction of the Council. (Comments relating to items on today's docket are to be taken at the time the item is heard.)

Time allotted to each speaker is determined by the Chair, however, comments are limited to no more than three (3) minutes **total per subject** regardless of the number of those wishing to speak. Submit requests to speak to the City Clerk **prior** to the start of the meeting. Pursuant to the Brown Act, no discussion or action, other than a referral, shall be taken by Council on any issue brought forth under "Non-Agenda Public Comment."

**COUNCIL, CITY ATTORNEY, CITY MANAGER COMMENT**

**REQUEST FOR CONTINUANCE**

The Council will now consider requests to continue specific items.

**ADOPTION AGENDA, DISCUSSION, OTHER LEGISLATIVE ITEM  
ORDINANCE TO BE INTRODUCED:**

ITEM-330: Amendments to Medical Cannabis Voluntary Verification Card Program.

**CITY ATTORNEY'S RECOMMENDATION:**

Introduce the following ordinance:

(O-2004-5 Cor. Copy)

Introduction of an Ordinance amending the San Diego Municipal Code by amending Chapter 4, Article 2, Division 13 by amending Section 42.1301, 42.1302, 42.1303, 42.1304, 42.1305, and 42.1306; by renumbering and amending existing Sections 42.1307 and 42.1308, respectively to 42.1309 and 42.1310; by adding new Sections 42.1307 and 42.1308; by renumbering existing Section 42.1311 to Section 42.1314; by renumbering and amending existing Sections 42.1309 and 42.1310, respectively to 42.1311 and 42.1312; and by adding new Section 42.1313, all relating to the San Diego Medical Cannabis Voluntary Verification Card Program.

**SUPPORTING INFORMATION:**

State law expressly permits the possession and use of cannabis "for medical purposes, where that medical need is deemed appropriate and has been recommended by a physician." However, state law does not provide specific guidance regarding the amount of cannabis that is medically necessary or legal to possess, and does not provide law enforcement officials with a mechanism for verifying that an individual has a medical need for cannabis. Under these circumstances, both patients and doctors have been reluctant to exercise their rights under the state law.

The Medical Cannabis Voluntary Verification Card Program ordinance was adopted by the City Council on February 25, 2002 by O-19036 to address these concerns. The ordinance sets forth a process to certify appropriate medical needs, issue identification cards to qualifying patients and caregivers, and to allow law enforcement to verify the validity of an individual identification card 24 hours a day. Under the original ordinance, the bearer of an identification card was allowed to possess up to one ounce of marijuana without being subject to arrest for possession of marijuana by SDPD within the jurisdictional limits of the City.

On February 4, 2003, the City Council approved a set of guidelines proposed by the City's Medical Cannabis Task Force entitled City of San Diego Law Enforcement Guidelines Regarding Possession of Medicinal Cannabis [Guidelines]. The purpose of the Guidelines is to set forth the specific conditions which must be met by participants in the Program in order to qualify for "safe harbor" treatment by SDPD. The Council directed that the City Attorney draft an ordinance consistent with the Guidelines.

The proposed amendments to the Medical Cannabis Voluntary Verification Card Program are for the purpose of conforming the existing ordinance to the Guidelines approved by the City Council on February 4, 2003. The amendments add a number of provisions to the existing ordinance, including: 1) a requirement that a patient's recommendation be in writing from a physician practicing in San Diego County; 2) a more specific application process for patients and caregivers, including the requirement that applicants sign a waiver protecting the City and program contractor from liability; 3) a requirement that applicants provide proof of a law enforcement background check; 4) a reduction in the number of patients allowed per caregiver from twelve to four; 5) a requirement that caregivers receive training and instruction in implementation of the ordinance; 6) changes to the permissible amount of marijuana from one ounce to the following amounts: a) up to one pound of processed marijuana for a patient, b) up to two pounds of processed marijuana for a caregiver, c) up to 24 unharvested plants for a patient, and d) up to 48 unharvested plants for a caregiver. The amendments also include a prohibition on outdoor cultivation of marijuana, and a prohibition on smoking cannabis in any public place or any place open to the public or exposed to public view.

#### ADOPTION AGENDA, DISCUSSION, HEARINGS

##### NOTICED HEARING:

ITEM-331: Otay Mesa East.

Matter of approving, conditionally approving, modifying or denying rezoning a vacant 45.5-acre site from AR-1-1 (Agricultural) to Otay Mesa Development District Commercial Subdistrict (OMDD-C) and to subdivide into 13 lots (9 commercial lots; 3 open space lots; and 1 private underground sewer pump station lot). An amendment to prohibit industrial uses in the OMDD-C Zone is also proposed. The site is located in the 6600 block of Otay Mesa Road in the Otay Mesa Community Planning Area.

(Otay Mesa Community Plan Area. District-8.)

#### CITY MANAGER'S RECOMMENDATION:

Adopt the resolution in subitem A; introduce the ordinances in subitems B and E; adopt the resolution in subitem C to grant the map; and adopt the resolution in subitem D to grant the permit:

Subitem-A: (R-2004-263)

Adoption of a Resolution certifying that Mitigated Negative Declaration, LDR No. 99-0555, on file in the office of the City Clerk, has been completed in compliance with the California Environmental Quality Act of 1970 (California Public

Resources Code section 21000 et seq.), as amended, and the State guidelines thereto (California Code of Regulations section 15000 et seq.), that the declaration reflects the independent judgment of the City of San Diego as Lead Agency and that the information contained in the report, together with any comments received during the public review process, has been reviewed and considered by this Council in connection with the approval of the land use actions for the Otay Mesa East-PTS No. 3159 project;

That the City Council finds that project revisions now mitigate potentially significant effects on the environment previously identified in the Initial Study and therefore, that the Mitigated Negative Declaration, a copy of which is on file in the office of the City Clerk and incorporated by reference, is approved;

That pursuant to California Public Resources Code section 21081.6, the City Council adopts the Mitigation, Monitoring and Reporting Program, or alterations to implement the changes to the project as required by this body in order to mitigate or avoid significant effects on the environment;

That the City Clerk is directed to file a Notice of Determination [NOD] with the Clerk of the Board of Supervisors for the County of San Diego regarding the above project.

Subitem-B: (O-2004-23)

Introduction of an Ordinance of the Council of the City of San Diego changing property located in the 6600 Block of Otay Mesa Road in the Otay Mesa Community Plan Area, in the City of San Diego, California, from the AR-1-1 Zone (previously referred to as the A-1-10 Zone) to the OMDD-C Zone, as defined by San Diego Municipal Code section 103.1103(a); and repealing Ordinance No. 10862 (new series), adopted July 29, 1972, of the Ordinances of the City of San Diego insofar as the same conflict herewith.

Subitem-C: (R-2004- )

Adoption of a Resolution granting or denying Vesting Tentative Map No. 008182, with appropriate findings to support Council action.

Subitem-D: (R-2004- )

Adoption of a Resolution granting or denying Resource Protection Ordinance Permit No. 008163, with appropriate findings to support Council action.

Subitem-E: (O-2004-24)

Introduction of an Ordinance of the Council of the City of San Diego amending

Chapter 10, Article 3, Division 11 of the San Diego Municipal Code by amending section 103.1103 relating to permitted uses in the Otay Mesa Development District.

**OTHER RECOMMENDATIONS:**

Planning Commission on July 17, 2003, voted 6:0 to approve; no opposition.

Ayes: Lettieri, Schultz, Brown, Garcia, Chase and Ontai

Not present: Steele

On June 19, 2002, the Otay Mesa Planning Group voted 16-0-0 in support of the project.

**SUPPORTING INFORMATION:**

The requested actions include a Rezone from A-1-10 to the Otay Mesa Development District-Commercial Subdistrict (OMDD-C) Zone, a Vesting Tentative Map (VTM) and a Otay Mesa Development District (OMDD)/Resource Protection Ordinance (RPO) Permit to allow commercial development of a vacant 45.5-acre site located in the 6600 block of Otay Mesa Road in the Otay Mesa Community Planning area and an amendment to Section 103.1103(b) of the Otay Mesa Development District Ordinance 017355, restrict industrial uses.

The Planning Commission considered this project on July 17, 2003 and voted 6:0:0 to recommend that the City Council adopt staff recommendations to approve the project as presented in Planning Report No. P-03-171. There was no opposition to the project.

On June 19, 2002, the Otay Mesa Planning Group voted 16-0-0 in support of the project.

The City Manager recommends that the City Council:

1. CERTIFY Mitigated Negative Declaration (MND) No. 99-0555 and ADOPT the associated Mitigation, Monitoring and Reporting Program (MMRP);
2. APPROVE the proposed Rezone No. 008161 from AR-1-1 (A-1-10, Old Code) to the Otay Mesa Development District-Commercial Subdistrict (OMDD-C) Zone;
3. APPROVE Vesting Tentative Map (VTM) No. 008182;
4. APPROVE Otay Mesa Development District/Resource Protection Ordinance Permit (Old Code) No. 008163; and
5. APPROVE an amendment to Section 103.1103 (b) of the Otay Mesa Development District Ordinance, No. 017355, restricting industrial uses.

**CODE ENFORCEMENT IMPACT** - None with this action.

**HOUSING AFFORDABILITY IMPACT** -

The property is zoned A-1-10 (pre-December 31, 1999, Old Code) and is equivalent to the

present AR-1-1 of the Land Development Code which allows residential development at very low densities and the minimum lot size in this zone is ten acres. The subject property contains 45.5 acres (32.2 net) and could yield a maximum of three residences. The proposed rezone to OMDD-C would preclude residential development and therefore, there is a potential loss of three dwelling units with the proposed rezone.

### **WATER QUALITY IMPACT-**

The project is required to comply with the State Water Resources Control Board Order No. 92.08-DWQ (NPDES General Permit No. CAS0000002). As stated in the project's Water Quality Technical Report, the development incorporates site design, source control and treatment Best Management Practices (BMPs) to mitigate water quality impacts.

### **TRAFFIC IMPACT:**

This project is estimated to generate approximately 12,631 Average Daily Trips (Phase 1: 8,143 ADT, Phase II: 4,488 ADT), 1,303 of which are estimated to occur on the nearby Interstate 905 (with Phase 1 of the project), which has an estimated near term plus project volume of 50,493 ADTs between Caliente Boulevard and I-805 with level of service "A". (Attachment 19) The extension of SR-905 is planned by Caltrans to be completed by 2007. According to the applicant, occupancy of the units is anticipated in 2007.

### **FISCAL IMPACT:**

None with action. All Impacts associated with the processing of this project are paid by the applicant.

Ewell/Christiansen/AIA/PXG/AICP

### **LEGAL DESCRIPTION:**

The project includes a proposal to rezone the 45.5-acre vacant project site from A1-10 (Agricultural) to Otay Mesa Development District-Commercial Subdistrict (OMDD-C). The project also proposes the subdivision of 13 legal lots consisting of 9 commercial lots (Lots 1-8 and 12) with 1,302 parking space on 32.1 developable acres; three open space lots (Lots 9-10 and 13), and construction of a private underground sewer pump station on 0.4 acres of land at the northeast corner of the site (Lot 11). Included in the project proposal is the preservation of the 1.3-acre wildlife corridor and MHPA in the northeast corner of the site adjacent to the existing 6-foot wildlife underground tunnel at Otay Mesa Road and Corporate Center Drive. Four acres will be designated as open space to protect the MHPA on the southern boundary of the site. An additional six acres on the eastern boundary of the project site will be designated as open space and includes a fenced preserve for 22 existing vernal pools and one road pool located in the southeast corner of the property. The project site is located at Otay Mesa Road and Corporate Center Drive within the Otay Mesa Community Planning Area.

NON-DOCKET ITEMS

ADJOURNMENT IN HONOR OF APPROPRIATE PARTIES

ADJOURNMENT